

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Implementation of the Satellite Home)
Improvement Act of 1999)
)
Application of Network Nonduplication,)
Syndicated Exclusivity, and Sports)
Blackout Rules to Satellite Retransmissions)

CS Docket No. 99-202
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FEB 28 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**REPLY COMMENTS OF MOTION PICTURE
ASSOCIATION OF AMERICA, INC.**

Motion Picture Association of America, Inc. ("MPAA"), in accordance with the Notice of Proposed Rulemaking ("Notice") released January 7, 2000 in the captioned docket, submits its reply comments on application of the syndicated exclusivity ("syndex") rules to satellite carriers' retransmission of nationally distributed superstations. On application of the syndex rules to satellite carriers, the only issue on which MPAA commented, there was relatively little disagreement as to the details among the parties filing comments.

Although MPAA suggested incorporation of satellite syndex rules with the existing cable syndex rules, most commentators favored "parallel, but distinct," satellite regulations to make them "easier to understand and comply with" and to "allow the differences between the regulations applicable to the satellite and cable industries to be highlighted." Comments of DirecTV, Inc. at 7; *see, e.g.*, Comments of ALTV at 7 (same). MPAA accedes to this majority view that separate, but parallel, regulations offer a more easily understood regulatory scheme.

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Almost all commentators, including MPAA, agreed that zip codes were a feasible and appropriate means to identify the specified zone of exclusivity around a market. *E.g.*, DirecTV Comments at 9; Baseball Comments at 13. This agreement recognized that it will be impossible to achieve perfect congruence between zip code boundaries and the exact boundary of a specified zone, but perfection should not be the enemy of the good in this case. ALTV Comments at 8. The cable “community unit” is likewise not a perfect fit, but presents a workable compromise, as would use of zip codes for satellite. Given that the specified zones and zip code designation are fairly stable identifiers, it may be possible for the Commission or a private group to establish a master map that lists all the zip codes within the specified zone of each television market for use by all affected parties. *See* DirecTV Comments at 9 (suggesting stations provide electronic file of affected zip codes when requesting protection).¹

MPAA agrees that notice should only be served on satellite carriers under any rules. NAB Comments at 7. Satellite carriers would then have the obligation to disseminate the information to their distributors. This approach parallels the satellite royalty treatment under which only satellite carriers are required to pay royalties even though distributors may have sold the service to a subscriber.

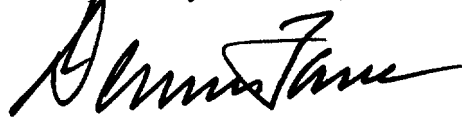
MPAA also agrees with the position of NAB and ALTV that satellite carriers must obtain retransmission consent from a station if the carriers intend to use programming from that station to substitute for blacked-out programming. NAB Comments 8; ALTV Comments 9. Both parties also indicate potential problems under

¹ NAB requests that use of post office box addresses, other than rural route addresses, to identify subscribers should be prohibited because it invites abuse. NAB Comments at 2-3. MPAA agrees that widespread abuse of post office box addresses to evade these rules should not be countenanced.

the satellite compulsory license in 17 U.S.C. § 119 related to use retransmitted station programming for substitution. While MPAA is sympathetic to these concerns, they are more properly subject to proceedings before the Copyright Office, which has authority over royalty matters. In addition, as Tribune points out (Comments at 5), other options besides substituting television programming are available, and thus it may be premature to set a policy now before seeing what the actual practice of carriers will be.

These relatively minor differences as to how to implement satellite syndex rules should not obscure the two primary points supporting adoption of the rules: (1) to increase parity between cable and satellite and (2) to strike a balance between the public benefit of access to superstations and the protection of rights holders' contractual rights. Notice at ¶ 9.

Respectfully submitted,



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